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PES declaration on the Commission's proposal for a services directive

Adopted by the PES Leaders, Stockholm, 24th February 2005

In the framework of the debate on the services directive, the PES Leaders, meeting in Stockholm on 24th February 2005, want to reaffirm the following values and principles.

The PES strongly supports the creation of a European market for services as the next step in the creation of a single European marketplace. Services now account for the bulk of GNP and employment in the EU and they are the major source of new employment for Europe's citizens. A European services market would bring benefits to consumers, employees and businesses.

Further to the relevant sectorial directives, the evolution of rules in the services sector, so far, has to a large extent been driven by the judgments from the Court in Luxembourg. The PES would like to see the legislators – the Council and the European Parliament - take the initiative and decide how the European market for services should develop and the framework of rules in which it should operate and be regulated. Developing a framework for the service sector regulation is a task for elected politicians.

However, the PES believes that the draft directive on services in the internal market should be modified to avoid social dumping. As it stands, the Commission proposal is unacceptable.

The combined efforts of progressive forces, the first works of the Council, the hearings of the European Parliament and the reactions of the trade unions and civil society have clearly pointed to serious questions and problems regarding the protection of workers, consumers and citizens, health and safety, culture and the environment. The PES believes that these vital issues must be tackled as we develop the European services market.

Public pension, social aid, health and educational care and cultural diversity must be safeguarded. Moreover, the application of this directive should not undermine working conditions, or challenge fundamental workers' rights, as embedded in the national legislation of the European Union countries, or collective agreements. The contribution of local services to social cohesion should be recognised.

The PES calls on the European Parliament, the European Commission and the Council to ensure that the proposal does not have a negative impact on posting of workers, social security for migrant workers, and mutual recognition of professional qualifications.

The PES has identified three concerns in the draft directive :

- “Services” are loosely defined, mainly according to economic criteria, and an identical scheme is set for all sectors. However, because of their nature (public services, services of general interest, local services), or the potential risks involved for their provision (public health, public security, workers’, consumers’ and environmental protection), their management and/or financing (social security) or other considerations such as cultural diversity, media plurality, and trade union rights, some of these services may require different instruments, or at least a much more differentiated framework than the one presented by the Commission and greater flexibility in how the proposal is to be applied to them. The definitions should clearly be, where necessary, further elaborated, and the scope of the directive must be clearly defined. The European Union and the member states must safeguard and uphold access to services of general interest as provided for in national laws and practices, in accordance with the Constitution, in order to promote the social and territorial cohesion of the Union in accordance with the treaty.
- Regarding the establishment for service providers, the proposed directive affects member states’ ability to allow and control certain activities. In the absence of harmonised rules, the member states should retain the possibility to regulate and control services provision on their territory, notably for reasons of general interest and in accordance with the Treaty. These rights cannot be overridden except for reasons of the general public interest, where these interests can be shown. This must be made absolutely clear in the proposal.
- The draft directive applies the “country of origin” principle to service provision, under which service providers should abide by the law of the country in which they are established, to the exclusion among others of the legislation of the country in which they operate. This “principle” which is a particularly undemanding form of the mutual recognition, is not mentioned in the Treaty as such but is applied by the Court, with many nuances in comparison to the draft directive. It can give rise to many questions and problems, and these should be evaluated against alternative measures. In any case, rules concerning services must not undermine the European social model by diminishing national social standards, which, in the absence of harmonised rules, remain under the responsibility of Member states. A truly integrated internal market in services with clear, simple and rules of high quality must be achieved.

The PES certainly welcomes the intention of the European Commission to work with the Parliament and the Council in an active and constructive way, in order to bring about agreement. However, in view of the importance of this proposal and its impact on social and environmental aspects, the PES remains fully seized of the importance of removing barriers to a European market for services and of the opportunities that will bring greater prosperity and job creation. The PES will follow closely the work of the Commission.